

## REMARKS

### **I. Status of the Claims**

Claim 40 is cancelled by the current amendment.

Claims 22–39 are currently pending.

Applicant explicitly reserves the right to pursue any material cancelled by this amendment in one or more continuation or divisional applications.

### **II. Response to Objection to the Disclosure**

As noted by the Examiner, the Specification is objected to because of the following informality. “The first line of the specification needs to be updated to indicate [that application ser. no.] 09/485,737 is now US Patent 6,350,860.”

In response, Applicant has amended the Substitute Specification so as to reflect that the application is now a granted patent. Accordingly, Applicant’s compliance with the Examiner’s requirement is believed to overcome the objection to the Specification.

### **III. Rejection under 35 U.S.C. § 112, second paragraph**

Claim 28 is rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for its recitation of the phrase “dimerization domain”. Specifically, the rejection alleges that “[c]laim 28 is indefinite for reciting “dimerization domain” because the exact meaning of the phrase is not clear. A single chain molecule has an interface where the light and heavy chain dimerize. Is this the dimerization domain?” Applicant responds as follows.

Applicant contends that one of ordinary skill in the art would fully appreciate the meaning of the term “dimerization domain”. Moreover, the specification clearly defines the meaning of the term. For example, at page 23, lines 15+ (of the specification as originally filed, i.e. WO 00/09055, recites in pertinent part *“that MoTab II which consists of 4 identical humanized D9D10scFv’s in the format of a homodimer of two identical molecules each containing two D9D10 scFv’s which are linked together using a dimerization domain; the latter domain also drives the homodimerization of the molecule... .”*

Moreover, page 24, lines 1–6, of the Specification further recite that:

*the term "dimerization domain" of MoTab I refers to any molecule known in the art which is capable of coupling the two identical molecules. Examples of such domains are the leucine zipper domain (de Kruif & Logtenberg, 1996), the helix-turn-helix motif described by Pack et al. (1993), the max-interacting proteins and related molecules as described in US 5,512,473 to Brent & Zervos and the polyglutamic acid-polylysine domains as described in US 5,582,996.*

Thus, the term "dimerization domain", as used in the claims, clearly refers to a domain that is capable of coupling two identical molecules to one another. As indicated in the passage cited above, dimerization domains are well known in the art. Thus, one of ordinary skill in the art would view the use of the term "dimerization domain" as used in claim 28 as being clearly defined.

In view of the teachings set out in the Specification and the above explanation, Applicant believes that the reason for the Examiner's rejection to the use of the term "dimerization domain" has been overcome and may now properly be withdrawn.

#### **IV. Rejection under 35 U.S.C. § 112, first paragraph**

Claim 40 is rejected under 35 U.S.C. § 112, first paragraph as allegedly not being enabled by the specification. Firstly, Applicant notes that the Office Communication states that claims 1-21 are rejected. However, since these claims are not pending in the current application, the undersigned patent agent consulted with Examiner Helms, by phone, on April 1, 2004. Examiner Helms indicated that the recitation of claims "1-21" was a typographical error and that the rejection should have been to claim "40". Applicant responds to the "corrected" rejection as follows.

Applicant does not concede that claim 40 is not enabled by the Specification. Nevertheless, in the interest of expediting allowance of the other pending claims, claim 40 is cancelled by the instant amendment to the claims. Accordingly, the rejection of claim 40, under 35 U.S.C. § 112, second paragraph is moot and should be withdrawn.

#### **V. Rejections under 35 U.S.C. § 103**

Claim 40 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Froyen *et al.* (Molecular Immunology 30:805-812, 1993) and further in view of Queen *et al.*

(WO 92/11018, 1992) and Pack *et al.* (J. Mol. Biol. 246:28-34, 1995). Applicant responds as follows.

Applicant does not concede that claim 40 is obvious in view of the cited references, taken either alone or in combination. Nevertheless, in the interest of expediting allowance of the remaining pending claims, claim 40 is cancelled by the current amendment to the claims. In view of this cancellation, rejection of claim 40 is moot. Accordingly, this rejection should be withdrawn.

## VI. Conclusions

In view of the foregoing AMENDMENTS, to the Specification and claims, and REMARKS, Applicant believes that all outstanding objections and rejections have been overcome and that the current specification is in condition for immediate allowance. Accordingly, Applicant respectfully requests favorable reconsideration of the Application and issuance of a Notice of Allowance therefore.

The Examiner is invited to contact the undersigned patent agent at (713) 787-1589 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,



Matthew L. Madsen  
Reg. No. 45,594  
Patent Agent for Assignee  
INNOGENETICS N.V.

HOWREY SIMON ARNOLD & WHITE, LLP  
750 Bering Drive  
Houston, Texas 77057-2198  
(713) 787-1400

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